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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,720	10/24/2000	Theodore W. Watler	13023(B)	3022
EXAMINER				
DAVIS, TEMICA M				
ART UNIT		PAPER NUMBER		
2681				
DATE MAILED: 02/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/696,720

Applicant(s)

WALTER ET AL.

Examiner

Temica M. Davis

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Terminal Disclaimer

1. The application/patent being disclaimed has not been identified. Specifically, the terminal disclaimer filed is for obviating a provisional double patenting rejection over a pending second application. However, a double patenting rejection was made on an issued patent, U.S. Patent No. 6,138,004. A corrected Terminal Disclaimer is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 2, 4, 6, 7 and 9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6 and 15 of U.S. Patent No. 6,138,004. Although the conflicting claims are not identical, they are not patentably distinct from each other. Specifically, claims 1 and 6 of the present application and claim 1 of the above identified patent disclose an interlink receiver system for encoding wireless phone units with security codes comprising a host computer, an interlink receiver unit remote from the host computer, connecting means between the interlink receiver and a wireless phone unit for communicating, authentication means in the interlink receiver unit that authenticates the interlink receiver unit using stored authentication code of the interlink receiver and cooperative authentication means in the host computer for authenticating the interlink receiver and authorizing exchange of data between the host computer and interlink receiver.

Claims 2 and 7 of the present application and claim 6 of the above identified patent both claim the interlink receiver as described above and further including wherein the host computer has data in the form of security codes and program means for transferring data when the interlink receiver unit is in communication with the host computer.

Claims 4 and 9 of the present application and claim 15 of the above identified application both claim an interlink receiver for entering/activating security codes in wireless phone units under control of a remote host computer, the interlink receiver unit comprising internal electronic circuitry, protected memory communications means for exchanging data between the interlink receiver unit and the host computer and data transfer means for transferring activation commands/security code data to the wireless phone unit in communication with the interlink receiver unit on command by the host computer.

4. Claims 3, 5, 8 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 15 of U.S. Patent No. 6,138,004 in view of Lynch et al (Lynch), U.S. Patent No. 5,761,618.

Regarding claims 3, 5, 8 and 10, U.S. Patent No. 6,138,004 discloses the interlink receiver system/unit as described above. U.S. Patent No. 6,138,004, however, fails to disclose wherein the interlink receiver unit is in the form of a smart card.

In a similar field of endeavor, Lynch discloses remotely downloading new system data into the memory of a wireless device/handset. Lynch further discloses the use of a smart card which acts as an interlink receiver in order to download information to the wireless device/handset (col. 18, line 59-col. 19, line 4).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify U.S. Patent No. 6,138,004 with the teachings of Lynch for the purpose of allowing manual downloading of information, which would, in certain

instances, be desirable by the user when maintenance is needed (Lynch, col. 19, lines 1-4).

Allowable Subject Matter

5. Claims 1-10 would be allowable upon filing a proper terminal disclaimer.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The examiner can normally be reached Monday-Friday (alternate Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (703) 305-4040. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Temica M. Davis
Examiner
Art Unit 2681

TMD

Handwritten signature of Temica M. Davis in cursive script, followed by the date 2/19/04.

TEMICA M. DAVIS
PATENT EXAMINER

Handwritten signature of Erika Gary in cursive script, with a horizontal line extending to the right. Below the signature is a rectangular stamp.

ERIKA GARY
PATENT EXAMINER